

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

KATE SPADE LLC, :

Plaintiff/Counterclaim Defendant, :

vs. :

Case No. 12 CIV 9260 (MGC)

SATURDAYS SURF LLC, :

Defendant/Counterclaim Plaintiff. :

**DECLARATION OF ROBERT S. WEISBEIN, ESQ. IN SUPPORT OF  
ORDER TO SHOW CAUSE FOR TEMPORARY RESTRAINING  
ORDER AND PRELIMINARY INJUNCTION AND EXPEDITED  
DISCOVERY**

I, Robert S. Weisbein, hereby declare as follows:

1. I am a member in good standing of the Bar of this Court and a partner with the law firm of Foley & Lardner LLP, attorneys for Defendant Saturdays Surf LLC (“Saturdays”) in the above-captioned action, and I am familiar with the facts and circumstances of this action.

2. I make this declaration in support of Saturdays’ Order to Show Cause for Temporary Restraining Order and Motion for a Preliminary Injunction and Expedited Discovery.

3. Annexed hereto as Exhibit 1 is a true and correct copy of Kate Spade’s Information Page on its website, [katespade.com](http://katespade.com).

4. In addition to its lines designed for women, Kate Spade also sells men’s clothing under its Jack Spade name and trademark. Annexed hereto as Exhibit 2 is a true and correct copy of Jack Spade’s Information Page on its website, [jackspade.com](http://jackspade.com).

5. Annexed hereto as Exhibit 3 and 4 are copies of Saturdays’ First Set of Interrogatories and First Requests For The Production of Documents, Electronically Stored

Information and Tangible Things to Kate Spade, copies of which were served on David H. Bernstein, Esq., counsel for Kate Spade, this morning at 9:38 a.m.

6. Attached hereto as Exhibit 5 is a proposed Stipulation agreed to by the parties setting forth a schedule of expedited discovery and briefing of the Preliminary Injunction motion, subject to the Court's approval.

7. As of the filing of Defendant's Order to Show Cause for Temporary Restraining Order, Kate Spade plans to launch its KATE SPADE SATURDAY line of apparel and accessories through the website [www.fab.com](http://www.fab.com) on Thursday, February 14, 2013, and through its own website located at [www.saturday.com](http://www.saturday.com) in early March of this year.

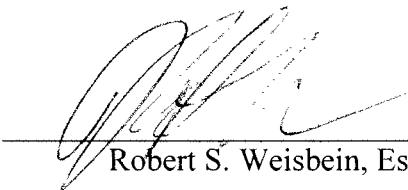
8. This motion is brought now before the Court by an order to show cause to prevent any irreparable injury to Saturdays as a result of Kate Spade's imminent launch of its new line KATE SPADE SATURDAY clothing and accessories.

9. On Monday, February 11, 2013, I notified Kate Spade's attorney David H. Bernstein of Debevoise & Plimpton LLP that today, Wednesday, February 13, 2013, Saturdays would be filing an Order to Show Cause for Temporary Restraining Order. On Wednesday, February 13, 2013, at approximately 11:15 a.m., I forwarded to Mr. Bernstein copies of the following: Order to Show Cause For Temporary Restraining Order, Memorandum of Law In Support of Motion For Temporary Restraining Order, Preliminary Injunction and Expedited Discovery, Declaration of Morgan Collett, Declaration of Robert S. Weisbein, Esq. On Wednesday, February 13, 2013, at 9:20 a.m., Mr. Bernstein and I called the Honorable Miriam Goldman Cedarbaum's chambers and spoke with her law clerk, to inform her of Saturdays' intention to file today an Order to Show Cause. We were instructed us to file the moving papers this morning.

10. No previous application has been made to this or any other Court for the relief sought herein.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and corrected.

Dated this 13<sup>th</sup> day of February, 2013.



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Robert S. Weisbein, Esq.